

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 515F.37, the Insurance Division proposes to amend Chapter 20, “Property and Casualty Insurance Rate and Form Filing Procedures,” Iowa Administrative Code.

These amendments make changes to the rules governing the Iowa FAIR Plan and align the rules with the actual practices of the Plan. The amendments remove from consideration the failure to pay property taxes and maintain utilities as risk factors when new policies are written or existing policies are renewed. The requirement that a producer present a rejection notice is eliminated and replaced by the requirement to submit a written statement indicating the producer’s inability to obtain coverage in the voluntary market. These amendments also update citations that were rendered inaccurate due to the reorganization of Iowa Code chapter 515.

These amendments do not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed amendments on or before February 18, 2010. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to angela.burke.boston@iid.iowa.gov.

A public hearing will be held at the office of the Insurance Division at 2 p.m. on February 18, 2010. The Division is located at 330 Maple Street, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 515F.37.

The following amendments are proposed.

ITEM 1. Amend rule 191—20.52(515,515F) as follows:

191—20.52(515,515F) Reasonable underwriting standards for property coverage.

20.52(1) The following characteristics may be used in determining whether a risk is acceptable for property coverage. Where there is more than one cause for declination, all causes shall be listed and complied with before the property may be accepted for insurance purposes.

a. to c. No change.

~~*d.* Characteristics of ownership or maintenance of building including any two of the following conditions:~~

~~(1) Failure to pay real estate taxes on a property after the taxes have been delinquent for one year or more. Real estate taxes shall not be deemed to be delinquent for this purpose even if they are due and constitute a lien so long as a grace period remains under local law during which such taxes may be paid without penalty.~~

~~(2) Failure, within the insured’s control, to furnish water for 30 consecutive days or more.~~

~~(3) Failure, within the insured’s control, to furnish heat for 30 consecutive days or more during the heating season.~~

~~(4) Failure, within the insured’s control, to furnish public lighting for 30 consecutive days or more.~~

~~*e. d.* Physical condition of buildings which results in an outstanding order to vacate, in an outstanding demolition order or in being declared unsafe in accordance with the applicable law.~~

~~f. e.~~ One or more of the conditions for nonrenewal as listed in 191—20.54(515,515F) currently exist. The Plan shall upon notice that conditions at the buildings have changed consider new application for coverage.

~~g. f.~~ Vandalism and malicious mischief coverage shall not be provided for a dwelling or commercial property where the property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period.

~~h. g.~~ Previous loss history or matters of public record concerning the applicant or any person defined as an insured under the policy.

~~i. h.~~ Any other guidelines which have been approved by the commissioner.

20.52(2) Reserved.

ITEM 2. Amend rule 191—20.54(515,515F) as follows:

191—20.54(515,515F) Cancellation; nonrenewal and limitations; review of eligibility.

20.54(1) The Plan shall not cancel or refuse to renew a policy issued by the Plan except for the following reasons:

a. No change.

b. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable ~~due pursuant to paragraphs “l. j.” and “m. k.”~~

c. to g. No change.

~~h. Utilities such as electric, gas or water services have been disconnected or the insured has failed to pay an account for such services within 120 days.~~

~~i. Real estate taxes have not been paid for a two-year period after the taxes have become delinquent. Real estate taxes shall not be deemed to be delinquent for this purpose if they are due and constitute a lien so long as a grace period remains under local law under which taxes may be paid without penalty.~~

~~j. h.~~ There is good cause to believe, based on reliable information, that the building will be burned for the purpose of collecting the insurance on the property. The removal of damaged salvageable items, such as normally permanent fixtures, from the building shall be considered under this paragraph when the insured can provide no reasonable explanation for such removal.

~~k. i.~~ A named insured or loss payee or other person having a financial interest in the property being convicted of the crime of arson or a crime involving a purpose to defraud an insurance company. The fact that an appeal has been entered shall not negate the use of this paragraph.

~~l. j.~~ The property has been subject to more than two losses, each loss amounting to at least \$500 or 1 percent of the insurance in force, whichever is greater, in the immediately preceding 12-month period, or more than three such losses in the immediately preceding 24-month period, provided that the cause of such losses is due to the conditions which are the responsibility of the owner named insured or due to the actions of any person defined as an insured under the policy.

~~m. k.~~ Theft frequency in which there have been more than two thefts, each loss amounting to at least \$500, in a 12-month period.

~~n. l.~~ Material misrepresentation in any statement to the Plan.

~~o. m.~~ On homeowners policies, excessive theft or liability losses. If a given property has been subject to two vandalism and malicious mischief losses, each loss amounting to at least \$500, in the immediately preceding 12-month period, or three or more such losses in the immediately preceding 24-month period, the Plan may convert the homeowners policy to a dwelling policy without vandalism and malicious mischief coverage.

20.54(2) The Plan shall terminate all insurance contracts in accordance with Iowa Code sections 515.80 515.125, 515.81A 515.127, and 515.81B 515.128.

20.54(3) At the completion of 36 months of coverage and prior to the completion of 48 months, each risk shall be reviewed for its eligibility for coverage in the voluntary market. The risk shall be submitted by the Plan to the producer of record, if any, for a search of the voluntary market. If the producer resubmits the risk to the Plan, ~~it~~ the risk must be resubmitted with a new application and ~~accompanied~~

by a current rejection notice a written statement from the producer that a search of the voluntary market was performed. The Plan shall reinspect the risk before coverage is provided.